



February 14, 2001

HOUSE BILL No. 1272

DIGEST OF HB 1272 (Updated February 13, 2001 1:36 PM - DI 103)

Citations Affected: IC 22-11.

Synopsis: Sale of common fireworks. Removes the penalty for the possession, transportation, or delivery of common fireworks. Permits a retailer to sell common fireworks at retail, and repeals the categories of common fireworks, novelties, and trick noisemakers that are permitted to be sold. Repeals the wholesaler requirements for fireworks not approved for sale in Indiana. Provides that a person who possesses, transports, or delivers special fireworks other than as authorized commits a Class A misdemeanor. Provides that a retailer may not knowingly sell unapproved fireworks to a person who is less than 18 years old. Provides that a person who is less than 18 years old and possesses unapproved fireworks commits a Class C misdemeanor. Makes conforming amendments.

Effective: Upon passage.

Mahern, Fry, Frizzell, Atterholt

January 9, 2001, read first time and referred to Committee on Commerce, Economic Development and Technology.
February 13, 2001, amended, reported — Do Pass.

HB 1272—LS 7366/DI 96+



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February 14, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1272

A BILL FOR AN ACT to amend the Indiana Code concerning fireworks.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 22-11-14-1 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this
- 3 chapter:
- 4 "Auto burglar alarm" means a tube that contains pyrotechnic
- 5 composition that produces a loud whistle or smoke when ignited. A
- 6 small quantity of explosive, not exceeding fifty (50) milligrams, may
- 7 also be used to produce a small report. A squib is used to ignite the
- 8 device.
- 9 "Booby trap" means a small tube with string protruding from both
- 10 ends, similar to a party popper in design. The ends of the string are
- 11 pulled to ignite the friction sensitive composition, producing a small
- 12 report.
- 13 "Chaser" means a device, containing fifty (50) milligrams or less of
- 14 explosive composition, that consists of a small paper or cardboard tube
- 15 that travels along the ground upon ignition. A whistling effect is often
- 16 produced, and a small noise may be produced.
- 17 "Cigarette load" means a small wooden peg that has been coated

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with a small quantity of explosive composition. Upon ignition of a cigarette containing one of the pegs, a small report is produced.

"Common firework" means a small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred thirty (130) milligrams or less of explosive composition. Propelling or expelling charges consisting of a mixture of charcoal, sulfur, and potassium nitrate are not considered as designed to produce an audible effect. Common fireworks

(+) include **the following**:

(A) (1) Ground and hand-held sparkling devices, which include dipped ~~stick~~, **sticks**, certain wire sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, and flutter sparklers.

(B) (2) Aerial devices, which include sky rockets, missile-type rockets, helicopter or aerial spinners, roman candles, mines, and shells.

(C) (3) Ground audible devices, which include firecrackers, salutes, and chasers. ~~and~~

(D) (4) Firework devices containing combinations of two (2) or more of the effects described in the preceding three (3) clauses. ~~and~~

(2) ~~do not include the following novelties and trick noisemakers:~~

(A) (5) Snakes or glow worms.

(B) (6) Smoke devices.

(C) (7) Wire ~~sparklers~~ **sparkler novelties** which contain no magnesium and which contain less than one hundred (100) grams of composition per item.

(D) (8) Trick noisemakers, which include party poppers, booby traps, snappers, trick matches, cigarette loads, and auto burglar alarms.

"Cone fountain" means a cardboard or heavy paper cone which contains up to fifty (50) grams of pyrotechnic composition, and which produces the same effect as a cylindrical fountain.

"Cylindrical fountain" means a cylindrical tube not exceeding three-quarters (3/4) inch in inside diameter and containing up to seventy-five (75) grams of pyrotechnic composition. Fountains produce

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a shower of color and sparks upon ignition, and sometimes a whistling effect. Cylindrical fountains may contain a spike to be inserted in the ground (spike fountain), a wooden or plastic base to be placed on the ground (base fountain), or a wooden handle or cardboard handle for items designed to be hand-held (handle fountain).

"Dipped stick" or "wire sparkler" means a common firework that consists of a stick or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition does not exceed one hundred (100) grams per item. Those devices containing chlorate or perchlorate salts do not exceed five (5) grams in total composition per item. Wire sparklers which contain no magnesium and which contain less than one hundred (100) grams of composition per item are not included in the category of common fireworks.

"Distributor" means a person who sells fireworks to wholesalers and retailers for resale.

"Explosive composition" means a chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when ignited.

"Firecracker" or "salute" is a device that consists of a small paper-wrapped or cardboard tube containing not more than fifty (50) milligrams of pyrotechnic composition and that produces, upon ignition, noise, accompanied by a flash of light.

"Firework" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of common fireworks and special fireworks. The following items are excluded from the definition of fireworks:

- (1) Model rockets.
- (2) Toy pistol caps.
- (3) Emergency signal flares.
- (4) Matches.
- (5) Fixed ammunition for firearms.
- (6) Ammunition components intended for use in firearms, muzzle loading cannons, or small arms.
- (7) Shells, cartridges, and primers for use in firearms, muzzle loading cannons, or small arms.
- (8) Indoor pyrotechnics special effects material.

"Flitter sparkler" means a narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. These devices do not use a fuse for ignition, but rather are ignited by igniting the paper at one (1) end of the tube.



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"Ground spinner" means a small spinning device which is similar to wheels in design and effect when placed on the ground and ignited, and which produces a shower of sparks and color when spinning.

"Helicopter" or "aerial spinner" is a spinning device:

(1) that consists of a tube up to one-half (1/2) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition;

(2) to which some type of propeller or blade device is attached; and

(3) that lifts into the air upon ignition, producing a visible or audible effect at the height of flight.

"Illuminating torch" means a cylindrical tube that:

(1) contains up to one hundred (100) grams of pyrotechnic composition;

(2) produces, upon ignition, a colored fire; and

(3) is either a spike, base, or handle-type device.

"Importer" means:

(1) a person who imports fireworks from a foreign country; or

(2) a person who brings or causes fireworks to be brought within this state for subsequent sale.

"Indoor pyrotechnics special effects material" means a chemical material that is clearly labeled by the manufacturer as suitable for indoor use (as provided in National Fire Protection Association Standard 1126 (1992 edition)).

~~"Interstate wholesaler" means a person who is engaged in interstate commerce selling fireworks not approved for sale in Indiana.~~

"Manufacturer" means a person engaged in the manufacture of fireworks.

"Mine" or "shell" means a device that:

(1) consists of a heavy cardboard or paper tube up to two and one-half (2 1/2) inches in inside diameter, to which a wooden or plastic base is attached;

(2) contains up to forty (40) grams of pyrotechnic composition; and

(3) propels, upon ignition, stars (pellets of pressed pyrotechnic composition that burn with bright color), whistles, parachutes, or combinations thereof, with the tube remaining on the ground.

"Missile-type rocket" means a device that is similar to a sky rocket in size, composition, and effect, and that uses fins rather than a stick for guidance and stability.

"Party popper" means a small plastic or paper item containing not more than sixteen (16) milligrams of explosive composition that is

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friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

"Person" means an individual, an association, an organization, a limited liability company, or a corporation.

"Pyrotechnic composition" means a mixture of chemicals that produces a visible or audible effect by combustion rather than deflagration or detonation. Pyrotechnic compositions will not explode upon ignition unless severely confined.

"Retail sales stand" means a temporary business site or location **that is a permanent structure having four (4) walls, a floor, a ceiling, and a foundation** where goods are to be sold.

"Retailer" means a person who purchases fireworks for resale to consumers.

"Roman candle" means a device that consists of a heavy paper or cardboard tube not exceeding three-eighths (3/8) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition. Upon ignition, up to ten (10) "stars" (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several-second intervals.

"Sky rocket" means a device that:

- (1) consists of a tube that does not exceed one-half (1/2) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition;
- (2) contains a wooden stick for guidance and stability; and
- (3) rises into the air upon ignition, producing a burst of color or noise at the height of flight.

"Smoke device" means a **novelty consisting of** tube or sphere containing pyrotechnic composition that produces white or colored smoke upon ignition as the primary effect.

"Snake" or "glow worm" means a **novelty consisting of a** pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices do not contain mercuric thiocyanate.

"Snapper" means a small, paper-wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes, producing a small report.

"Special fireworks" means fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, including firecrackers containing more than one hundred thirty (130) milligrams of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic composition, and other exhibition display items that exceed the limits for classification as common

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1 fireworks.

2 "Trick match" means a kitchen or book match that has been coated
3 with a small quantity of explosive or pyrotechnic composition. Upon
4 ignition of the match, a small report or a shower of sparks is produced.

5 "Trick noisemaker" means an item that produces a small report
6 intended to surprise the user.

7 "Wheel" means a pyrotechnic device that:

8 (1) is attached to a post or tree by means of a nail or string;

9 (2) contains up to six (6) driver units (tubes not exceeding
10 one-half (1/2) inch in inside diameter) containing up to sixty (60)
11 grams of composition per driver unit; and

12 (3) revolves, upon ignition, producing a shower of color and
13 sparks and sometimes a whistling effect.

14 "Wholesaler" means a person who purchases fireworks for resale to
15 retailers.

16 SECTION 2. IC 22-11-14-2 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The fire
18 prevention and building safety commission may adopt rules for the
19 granting of permits for supervised public displays of **special** fireworks
20 by municipalities, fair associations, amusement parks, and other
21 organizations or groups of individuals. The fire prevention and building
22 safety commission created under IC 22-12-2 shall establish by rule the
23 fee for the permit. A fee collected for a permit shall be paid into the fire
24 and building services fund created under IC 22-12-6-1. The application
25 for any permit must name a competent operator who is to officiate at
26 the display together with a brief resume of the operator's experience.
27 No operator who has a prior conviction for violating this chapter may
28 operate any display for one (1) year after the conviction. Every display
29 shall be handled by a qualified operator to be approved by the chief of
30 the fire department of the municipality in which the display is to be
31 held and shall be so located, discharged, or fired as, in the opinion of
32 the chief of the fire department, or the township fire chief, or the fire
33 chief of the municipality nearest the site proposed in case the exhibit
34 or display is sought to be held outside of the corporate limits of any city
35 or town, after proper inspection, is not hazardous to property or person.
36 Applications for permits must be made in writing at least fifteen (15)
37 days in advance of the date of display. A permit granted under this
38 section is not transferable.

39 (b) A municipality may adopt an ordinance concerning the
40 conducting and display of indoor pyrotechnics. However, an ordinance
41 adopted under this subsection may not be more lenient than a rule
42 adopted by a state agency.



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(c) A municipality or an organization that obtains a permit for an indoor pyrotechnics display from a local governmental entity is not required to obtain a permit approved by the state fire marshal.

(d) A person who possesses, transports, or delivers **special** fireworks, except as authorized under this section, commits a Class A misdemeanor.

SECTION 3. IC 22-11-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Nothing in this chapter shall be construed to prohibit:

(1) any ~~resident~~ wholesaler, manufacturer, importer, or distributor from selling:

(A) at wholesale fireworks not prohibited by this chapter; or

(B) fireworks not approved for sale in Indiana if they are to be shipped directly out of state within five (5) days of the date of sale;

(2) the use of fireworks by railroads or other transportation agencies for signal purposes or illumination;

(3) the sale or use of blank cartridges for:

(A) a show or theater;

(B) signal or ceremonial purposes in athletics or sports; or

(C) use by military organizations;

~~(4) the intrastate sale of fireworks not approved for sale in Indiana between interstate wholesalers;~~

~~(5)~~ (4) the possession, sale, or disposal of fireworks, incidental to the public display of ~~Class B~~ **special** fireworks, by wholesalers or other persons who possess a permit to possess, store, and sell **Class B 1.3g** explosives from the Bureau of Alcohol, Tobacco and Firearms, United States Department of the Treasury; or

~~(6)~~ (5) the use of indoor pyrotechnics special effects material before an indoor or outdoor proximate audience.

(b) For the purposes of this section, a ~~resident wholesaler, importer, or distributor~~; is a person who:

(1) is a resident of Indiana;

(2) possesses for resale common fireworks approved or not approved for sale in Indiana;

(3) is engaged in the interstate sale of common fireworks described in subdivision (2) as an essential part of a business that is located in a permanent structure and is open at least six (6) months each year;

(4) sells common fireworks described in subdivision (2) only to purchasers who provide a written and signed assurance that the fireworks are to be shipped out of Indiana within five (5) days of

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the date of sale; and

(5) has possession of a certificate of compliance issued by the state fire marshal under section 5 of this chapter.

(c) A purchaser may not provide a written and signed assurance that the fireworks purchased are to be shipped out of Indiana and then sell or use them in Indiana.

(b) A retailer may sell common fireworks at retail, subject to section 7 of this chapter.

SECTION 4. IC 22-11-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A person who violates section 4(c), 5(c), 5(d), 7, or 8 of this chapter commits a Class A misdemeanor.

SECTION 5. IC 22-11-14-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A retailer selling fireworks at one (1) or more temporary stands must obtain a fireworks ~~stand~~ retail sales **stand** permit, referred to in this section as a "permit", from the state fire marshal.

(b) An application for a permit must be made before June 1 of each year and must require that at least the following information be supplied by the retailer:

(1) The retailer's retail merchant certificate number or proof of application for a certificate number.

(2) The location of each **retail sales** stand.

The state fire marshal shall, within seven (7) days after the receipt of an application for a permit, either issue the permit or notify the applicant of the denial of the permit.

(c) The retailer must pay to the state fire marshal an annual permit fee set under IC 22-12-6-8. If the state fire marshal approves an application for a permit, he shall issue a permit to the retailer. The permit expires one (1) year after the date of issuance.

(d) The permit shall be posted by the retailer at the **retail sales** stand so that it is easily seen by the public. However, the state fire marshal's issuance of a permit does not constitute approval of the fireworks offered for sale by the retailer. The retailer is responsible for determining that all fireworks which he offers for sale conform to applicable law.

(e) At each **retail sales** stand, the retailer shall provide:

(1) a posted certificate of compliance, including a descriptive list of approved fireworks; and

(2) a supervisor who is at least ~~sixteen (16)~~ **eighteen (18)** years of age.

(f) Fireworks may not be sold at retail from trucks, vans, or

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1 automobiles.

2 SECTION 6. IC 22-11-14-8 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **(a)** A person
4 shall not **knowingly** sell at retail or offer for sale at retail, **to a person**
5 **who is less than eighteen (18) years of age** any fireworks, novelties,
6 or trick noisemakers other than the following:

- 7 (1) ~~Dipped sticks or~~ Wire sparklers. ~~However,~~ Total pyrotechnic
8 composition may not exceed one hundred (100) grams per item.
9 ~~Devices containing chlorate or perchlorate salts may not exceed~~
10 ~~five (5) grams in total composition per item.~~
11 (2) ~~Cylindrical fountains.~~
12 (3) ~~Cone fountains.~~
13 (4) ~~Illuminating torches.~~
14 (5) ~~Wheels.~~
15 (6) ~~Ground spinners.~~
16 (7) ~~Flitter sparklers.~~
17 (8) **(2)** Snakes or glow worms.
18 (9) **(3)** Smoke devices.
19 (10) **(4)** Trick noisemakers, which include:
20 (A) Party poppers.
21 (B) Booby traps.
22 (C) Snappers.
23 (D) Trick matches.
24 (E) Cigarette loads.
25 (F) Auto burglar alarms.

26 **(b) The following defenses are available to a person accused of**
27 **selling fireworks other than those set forth in subsection (a) to a**
28 **person who is less than eighteen (18) years of age:**

- 29 **(1) The buyer or recipient produced a driver's license bearing**
30 **the purchaser's or recipient's photograph, showing that the**
31 **purchaser or recipient was of legal age to make the purchase.**
32 **(2) The buyer or recipient produced a photographic**
33 **identification card issued under IC 9-24-16-1, or a similar**
34 **card issued under the laws of another state or the federal**
35 **government, showing that the purchaser or recipient was of**
36 **legal age to make the purchase.**

37 **(c) A person less than eighteen (18) years of age who:**

- 38 **(1) purchases fireworks other than those set forth in**
39 **subsection (a);**
40 **(2) accepts fireworks other than those set forth in subsection**
41 **(a);**
42 **(3) possesses fireworks other than those set forth in subsection**



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1 (a); or

2 (4) uses fireworks other than those set forth in subsection (a);
3 commits a Class C misdemeanor.

4 (d) It is a defense under subsection (c) that the accused person
5 accepted or possessed fireworks in the ordinary course of
6 employment in a business concerning fireworks.

7 SECTION 7. IC 22-11-14-9 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The state fire
9 marshal is charged with the responsibility of enforcing **sections 2, 3, 5,**
10 **and 7 of** this chapter.

11 SECTION 8. IC 22-11-14-10 IS REPEALED [EFFECTIVE UPON
12 PASSAGE].

13 SECTION 9. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Technology, to which was referred House Bill 1272, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 8, line 11, after "5(d)," delete "or".

Page 8, line 11, after "7" insert ",".

Page 8, line 11, reset in roman "or 8".

Page 8, line 40, strike "sixteen (16)" and insert "**eighteen (18)**".

Page 8, after line 42, begin a new paragraph and insert:

"SECTION 6. IC 22-11-14-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **(a)** A person shall not **knowingly** sell at retail ~~or offer for sale at retail~~, **to a person who is less than eighteen (18) years of age** any fireworks, novelties, or trick noisemakers other than the following:

(1) ~~Dipped sticks or~~ Wire sparklers. ~~However,~~ Total pyrotechnic composition may not exceed one hundred (100) grams per item. ~~Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item.~~

~~(2) Cylindrical fountains.~~

~~(3) Cone fountains.~~

~~(4) Illuminating torches.~~

~~(5) Wheels.~~

~~(6) Ground spinners.~~

~~(7) Flitter sparklers.~~

~~(8)~~ **(2)** Snakes or glow worms.

~~(9)~~ **(3)** Smoke devices.

~~(10)~~ **(4)** Trick noisemakers, which include:

(A) Party poppers.

(B) Booby traps.

(C) Snappers.

(D) Trick matches.

(E) Cigarette loads.

(F) Auto burglar alarms.

(b) The following defenses are available to a person accused of selling fireworks other than those set forth in subsection (a) to a person who is less than eighteen (18) years of age:

(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph, showing that the purchaser or recipient was of legal age to make the purchase.

(2) The buyer or recipient produced a photographic



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identification card issued under IC 9-24-16-1, or a similar card issued under the laws of another state or the federal government, showing that the purchaser or recipient was of legal age to make the purchase.

(c) A person less than eighteen (18) years of age who:

- (1) purchases fireworks other than those set forth in subsection (a);
- (2) accepts fireworks other than those set forth in subsection (a);
- (3) possesses fireworks other than those set forth in subsection (a); or
- (4) uses fireworks other than those set forth in subsection (a);

commits a Class C misdemeanor.

(d) It is a defense under subsection (c) that the accused person accepted or possessed fireworks in the ordinary course of employment in a business concerning fireworks.

SECTION 7. IC 22-11-14-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The state fire marshal is charged with the responsibility of enforcing **sections 2, 3, 5, and 7** of this chapter."

Page 9, line 1, delete "THE FOLLOWING ARE" and insert "IC 22-11-14-10 IS".

Page 9, line 2, delete "PASSAGE]: IC 22-11-14-8; IC 22-11-14-10." and insert "PASSAGE].".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1272 as introduced.)

FRY, Chair

Committee Vote: yeas 12, nays 0.

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